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PHASES OF BUDGETING IN THE UNITED STATES GOVERNMENT

By

Bernard L. Samuels
Lt. Commander, U. S. Navy

Prepared for
Dr. A. Rex Johnson

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INTRODUCTION

For almost every action that takes place in government there is ultimately an expenditure of public funds and, although this country is the wealthiest in the world, its financial resources are limited and its expenditures must be controlled. The control of Federal expenditures is exercised by the Executive and the Legislative Branches of our Government. The Constitution is the basic source of congressional financial powers, although various statutes have been enacted over the years which enable the Congress to exercise financial control in a world not envisioned by the originators of our Constitution.

One of the most effective means of financial control is a budget--a financial plan. The processes of budget formulation, review, enactment and execution result in many desirable by-products. These processes force planning for at least one year in advance; bring to light future problems which may be encountered and which must be recognized, and force the administrator to put first things first simply because he will not be granted funds sufficient to do all the things he would like to do. These processes also provide a standard against which an administrator may be measured and provide a basis for decisions as to the desirability of originating, continuing or discontinuing certain governmental services or programs. Budget formulation, review, enactment and execution also force a recognition of the economic condition of the country since the budget relates expenditures to revenues.

The budget of the United States Government is a joint Executive-Legislative venture and each Branch must accept responsibility for its part.

The Federal budget may be considered as falling into four distinct phases: preparation and submission; authorization; execution; and audit.

The preparation and submission of the budget is an executive function which is carried out by the executive departments and agencies, by the Bureau of the Budget, and by the President.

Authorization of the budget is a legislative function which is carried out by the House and the Senate and by their appropriations committees.

The Executive Branch is charged with the execution of the budget and this phase is performed by the Bureau of the Budget, the Treasury Department and the other executive departments and agencies.

The final phase of budgeting in the U. S. Government is auditing; this phase is carried on independently and concurrently by the Legislative and Executive Branches. The auditing function for the Executive Branch is performed by the executive departments and agencies and the legislative audit is performed for the Congress by the General Accounting Office.

The purpose of this paper is to set forth how the Federal Government is organized to perform the various phases of budgeting and, further, to show the procedures followed by these organizations in the performance of this mission.

Chapter I of this paper contains a brief history of congressional financial power from the time of the Congress of the Confederation; this chapter shows some of the weaknesses of that Congress and of the subsequent strengthening of the new Congress. Particular emphasis is placed on those articles of the Constitution which are the source of the present congressional financial powers.

Chapter II discusses the present congressional committee system in general and the appropriations committees in particular. All the congressional

appropriations subcommittees are named and the number of members on each subcommittee shown. Comments are made on committee membership and their powers; criticism has been directed toward some of the practices of the appropriations subcommittees in their review of the budget estimates.

Chapter III is a discussion on the formulation and review of the budget in the Navy Department, the Department of Defense, and the Bureau of the Budget; each phase of review is considered in some detail.

Chapter IV covers the various types of budget authorization; supplemental and deficiency appropriations are described as well as some of the controversies which have always accompanied this type of appropriation. The chapter concludes with a discussion on apportionment.

Chapter V, the concluding chapter, discusses the General Accounting Office from the time it was a part of the Treasury Department. The expressed and implied powers of this office which were granted by the Budget and Accounting Act of 1921 are discussed in some detail. Mention is made in this chapter of the various relations the General Accounting Office has had with the executive departments and agencies. The chapter concludes with the present organization of this Office and an outlook for the future.

CHAPTER I

HISTORY OF CONGRESSIONAL FINANCIAL POWER

The first decade of American independence was the critical period of American history. The crisis of war was succeeded by the crisis of government and was a spectacle of a revolutionary government unable to govern.

The Congress of the Confederation

Under the Articles of Confederation, a loose Confederation was set up and sovereignty resided in the several states; state nationalism at this time was very strong and men considered their State to be their country. One of the most serious weaknesses which faced the Congress of the Confederation was the lack of effective power to raise money, in particular to tax.[1] The people in the various states were suspicious of the new Federal Government and were opposed to sending the proceeds of local taxation to a "distant government." As a result of this attitude the Congress had only two avenues open to it to obtain revenue—borrowing, and making requisitions upon the states. The ability to borrow had been pretty well exhausted during the war and the effectiveness of requisitions on the states depended almost entirely on their cooperation since the Federal Government had no effective means of enforcing its requests.

The lack of power to control commerce was also a serious weakness of the new government;[2] it lacked the power to establish duties on imports or

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[1] Claudius O. Johnson, Government in the United States (5 ed.; New York: Thomas Y. Crowell Company, 1952), p. 9.

[2] Ibid., p. 10.

upon exports and also lacked the power to prevent the individual states from doing whatever they desired in this area. Because of these weaknesses the country as a whole suffered; no funds were made available for national use and, as a result, the nation's trade and growth languished. This situation was greatly aggravated by the efforts of the various states to establish their own paper money as the legal tender for the entire country.

Because of the weaknesses in the Articles of Confederation it was the view of many that a central government with so little power must surely fail.

The New Constitution

The State of Virginia made the first attempt to unify the more-or-less divided states. The Virginia Legislature sent a call out to all the states and requested that they send representatives to Annapolis for the purpose of surveying the trade of the country and of determining if ways could be found to improve such trade to the benefit of all concerned. This Annapolis Convention was a failure because representatives from only five States attended.[3]

The Congress of the Confederation itself was alarmed over the state of national affairs and called a convention to be held in Philadelphia for the purpose of reversing the Articles. Deliberations had not gone far in this convention when the question was posed as to whether wisdom would not be on the side of adopting a new constitution.

After much discussion it was agreed that the power of the national government should be greatly increased and that the new constitution would be the supreme law of the land and would be enforceable in the courts.

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[3] Legislative Reference Service, Library of Congress, Constitution Of The United States Of America (Washington, D.C.: Government Printing Office, 1953), p. 11.

> The Constitution of the United States, as framed by the constitutional convention of 1787, was intended to be a copy of the government of England, with such changes as seemed to our own statesmen necessary to safeguard the people of America against the particular sorts of prerogatives and power that had worked them harm in their dealings with the government of the mother country over sea.[4]

There was one problem in particular which threatened to break up the convention; this was the problem relating to the voting power of the new Congress. The large states wanted representation with voting power proportional to population but the small states wanted voting power to be equal. It is important to remember at this point that Congress, under the Articles, consisted of only one House. This particular obstacle which concerned voting power was removed by the delegates from Connecticut who proposed that the new Congress be made up of two Houses, an upper House which would provide for equal representation, and a lower House which would provide for representation based on population of the states.[5] In his book, Overstreet states that the willingness of the delegates to the convention to "go ahead" instead of returning to our pre-revolutionary status when it was evident that the Articles of Confederation would not work was a case of "applied maturity."[6]

Source of Congressional Financial Powers

The new Constitution as finally adopted gave to the new Congress many powers which it did not have under the Articles of Confederation. The particular powers which Congress has under the Constitution and which relate to the question of the role of Congress in financial administration are contained mostly in Article I, Section 8.

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[4] Woodrow Wilson, Constitutional Government in the United States (New York: Columbia University Press, 1921), p. 42.

[5] Johnson, op. cit., p. 21.

[6] H. A. Overstreet, The Mature Mind (New York: W. W. Norton and Company, Inc., 1949), p. 158.

Article I. Section 8 Clause 1 states: "The Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all such duties, imposts, and excises shall be uniform throughout the United States." This particular clause, then, it authority for nearly all federal taxation. It gives Congress the authority not only to tax to raise revenue, but to tax to protect some American industries and to regulate others. Congress is thereby authorized to tax; to pay debts; provide for the common defense; and provide for the general welfare.

Article I. Section 8 Clause 2 of the Constitution states that Congress is authorized: "To borrow money on the credit of the United States." Thus, Congress has the power to borrow [through the Treasury] from any source, foreign or domestic and up to any amount and the only collateral needed is "the credit of the United States." This power to borrow, together with the power to coin and regulate the value of money, implies authority to issue paper money and to compel its acceptance as legal tender. This Constitutional power also justifies the creation of National Banks to buy and sell government bonds.[7] Thus, when Congress porrows money it pledges repayment in currency the value of which Congress itself has the power to determine.

Article I. Section 8 Clause 5 of the Constitution authorizes the Congress: "To coin money, regulate the value thereof and of foreign coin . . . ." For years it was felt that Congress had the right to make metallic money only, but in 1883 the Supreme Court finally found that Congress had the right to make paper money also. By this clause Congress has the power to raise or lower the value of money whenever it sees fit and to determine whether the monetary system shall be based upon gold or upon anything else.

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[7] McCulloch v. Maryland, 4 Wheat. 316 (1819).

As added power, the Constitution states in Article I. Section 8 Clause 18 that Congress shall have the power: "To make all laws which shall be necessary and proper for carrying into execution the foregoing powers. . . ." This clause is an enlargement of the powers expressly granted to Congress and enables the lawmakers to select any reasonable means to enforce those powers.[8]

And finally, Article I. Section 9 Clause 7 states: "No money shall be drawn from the Treasury but in consequence of appropriations made by law. . . ." This clause then is a limitation upon the power of the Executive Departments but it does not restrict Congress in appropriating moneys in the Treasury.[9]

There is one section in the Constitution which places a specific responsibility for providing revenues on the House of Representatives and this particular section was adopted verbatim from the State of Massachusetts Constitution.[10] This is section 7 of Article 1 of the U. S. Constitution and it states: "All bills for raising revenue shall originate in the House of Representatives but the Senate may propose or concur with amendments as on other bills."

Implementing Financial Powers

To carry out the financial powers which were granted to it by the new Constitution, the Congress was required to establish the Treasury Department. Throughout its long history this Department has had many functions; the emphasis which has been placed upon these functions has varied according to their importance or to the needs of the country at any given time. In the beginning, tariffs were the primary source of revenue for the country and this function absorbed most of the Treasury Department's energy; today this source

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[8] Ibid.

[9] Cincinnati Soap Co. v. United States, 301 U.S. 308, 321 (1937); Knote v. United States, 95 U.S. 149, 154 (1877).

[10] Constitution of the Commonwealth of Massachusetts, sect. 111, art. 7.

of funds is relatively insignificant and the effort expended in this area represents but an infinitesimal part of the total activity of the present Department.

Over the years the Treasury Department has reorganized several times in order to perform its function as the nation's collector of revenue and to carry on its function as its chief disbursing agent. Today this Department has many functions, the first of which is the collection of tax revenues; this function is accomplished by a Bureau of Customs and a Bureau of Internal Revenue. The next function is to keep the government's money and pay its bills in accordance with the appropriations made by Congress. Control of currency is another of the Treasury Department's functions; a Bureau of Engraving and Printing prepares all the paper money as well as the bonds and other securities of the government, and the Bureau of Mint supervises the mint and assay offices. In addition to these, a Bureau of the Comptroller of Currency supervises the National Banks and directs periodic inspections of them and sees to the issuance and redemption of Federal Reserve Notes and Federal Reserve Bank Notes. The United States Secret Service also comes under the jurisdiction of the Treasury Department; one of its functions is to guard the country's currency and securities against counterfeiting.[11] Still another function of the Treasury Department is performed by the Office of International Finance which was established in 1947; this Office is responsible for advising and assisting the Secretary of the Treasury in the formulation and execution of policies and programs relating to the very extensive international financial operations in which the United States has become involved, especially since 1944. The final function of the Treasury Department is performed by the Public Debt Bureau, which was established in 1940. Once it has been decided to make a new offering of public debt securities, this Bureau

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[11] Johnson, op. cit., p. 548.

prepares the necessary documents and directs the handling of the subscriptions, and plans and issues these securities. The Public Debt Bureau is also responsible for attending to the retirement of securities and for all public-debt accounting and auditing.

Congress also implements its financial powers through statutes, appropriations committees and the General Accounting Office. Since each of these items will be considered in more detail in subsequent chapters of this paper, no further reference will be made to them at this time.

Revenues

Although the Government receives large amounts of money from non-tax sources, such receipts are totally inadequate to meet the current-day expenditures of government, and Congress has only two other sources from which it can obtain the required amounts—taxation and borrowing. A major difference between the government under the Articles of Confederation and that under our present system is that the former could raise money only by making requisition upon more or less uncooperative State, whereas the present Congress can reach down past the State Governments to the individual citizen and can levy a tax on his property, or business, or income, and, if necessary, enforce payment by seizing and selling his possessions in case he is delinquent. The power of Congress to raise revenues was greatly increased when the Constitution was amended in order to permit the Congress to tax incomes.[12] Over the years the revenues derived from this source have constantly increased until today the income tax plays the leading role in the Federal revenue system. Very appropriately, then, the long list of powers given to Congress in Section 8 of the First Article of the Constitution starts off with the power, ". . . to lay and collect taxes, . . ."

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[12] Sixteenth Amendment to U. S. Constitution.

Great as is this power to tax, Congress may exercise it only in accordance with certain expressed or implied restrictions. To begin with, Congress is not free to levy taxes for just any purpose; taxes can be levied only ". . . to pay the debts and provide for the common defense and the general welfare of the United States." The terms "debts" and "defense" have not been difficult to interpret, but the term "general welfare" is so broad that there have always been differences of opinion as to what activities and objectives are included within it. In practice, however, and especially of late, this broad term has not been much of a hurdle to those who are seeking to justify new taxes to provide for the "general welfare" and any tax or appropriation which Congress feels is for this purpose is justified as long as the Supreme Court goes along with it. Both Congress and the Supreme Court have been inclined in recent years to give this term the very broadest meaning.

CHAPTER II

THE BUDGET AND ITS REVIEW

"The budget is a plan of action, for a business [Government], expressed in dollar terms for a definite period of time."[13]

Early Federal Budgeting Practices

The financial plan of the Federal Government of the United States is characterized by its increasing unity and comprehensiveness. Its development falls into two major stages: (1) the period from 1789 to 1921; and (2) the period from 1921 until the present. During the first period, the budget-making function was shared in a haphazard way by the various executive departments of the government and by Congress. While legislation in 1789, 1800, 1820, 1842, and 1884 ostensibly gave the Secretary of the Treasury the authority for presenting an over-all financial plan, this authority was never used. The preparation of the preliminary estimates of expenditures was undertaken by the heads of departments with the Treasury acting as a mere transmitting agency to Congress although the Secretary of the Treasury continued to be held personally responsible for the submission of revenue estimates.[14]

On the basis of these requests for funds by the spending agencies, Standing Committees of the House of Representatives formulated appropriation bills. And, although some coordination of the Government's financial

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[13] B. F. Coggan, "What Management Expects From the Budget," Business Budgeting, VI (January, 1958), p. 11.

[14] Arthur Smithies, The Budgetary Process in the United States (New York: McGraw-Hill Book Company, 1955), pp. 49-76.

activities was attained between 1795 and 1864 by the House Committee on Ways and Means,[15] a diffusion of budgetary responsibilities began in 1865 with the creation of a Committee on Appropriations. This diffusion further proceeded in 1885 when appropriation requests were referred to a half dozen or more committees in the Senate and in the House.

In addition to the diffusion and lack of integration involved in the formulation and adoption of the budget, the methods of expenditure control developed during this period were only moderately successful.

Federal Budget System

The movement for centralized budgetary control that emerged out of collective financial irresponsibility found fruition in the Budget and Accounting Act of 1921.[16] The immediate impetus for this Act was provided by a widely prevalent desire for government economy after the unprecedented government expenditures and the size of the national debt caused by World War I. The passage of this Act on June 10, 1921 marks the second major stage in Federal budgetary history. The chief effect of this Act was to make the preparation of the annual budget and the supervision of its execution the responsibility of the President,[17] rather than that of the individual Executive Departments and of Congress. To assist the President to carry out these responsibilities, a Bureau of the Budget was created in the Treasury Department. This Bureau remained under the Treasury Department until 1939, at which time President Roosevelt removed it from Treasury and placed it within the Executive Office of the President. This Bureau is directly responsible to the President, and in addition to its budgetary functions is directed by

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[15] Ibid., pp. 11-12.

[16] U. S. Congress, Budget and Accounting Act, 1921, 42 Stat. 20, 31 U. S. C. 41, Approved June 10, 1921.

[17] Prior to this time the President had no part in budget formulation or execution.

the Budget and Accounting Act to scrutinize on a continuing basis the administrative organization and operation of the Executive Branch of the Government. This Bureau also coordinates legislative proposals originating in the departments and establishments of the government.

Budget Call

The present steps in budget formulation can be described as follows: The Director of the Bureau of the Budget first calls for estimates of necessary appropriations from the various Federal agencies. In order that the budget may be prepared in time, heads of departments are required to transmit their estimates of expenditure needs for the next fiscal year by September 30 of the preceding fiscal year.[18] The assembling and reviewing of the preliminary estimates of the subdivisions of any given department are accomplished by an officer of that department who is known as the budget officer or the comptroller.

Since each governmental agency follows a somewhat different internal procedure for the formulation and review of its budget, only the procedures used by the Department of the Navy and the Department of Defense will be considered here.

Budgetary Procedure and Review in the Navy Department

Dates	Program Objectives
15 Dec.	1. The Secretary of the Navy writes the Chief of Naval Operations and the Commandant of the Marine Corps outlining policy with respect to the new budget and directing preparation of the program objectives for the fiscal year concerned. The Chief of Naval Operations is directed to coordinate and integrate the program objectives for the Naval Establishment for the Secretary.
21 Dec.	2. The Chief of Naval Operations issues a call to program sponsors for submittal of their respective program objectives with the deadline date of 10 January.

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[18] Executive Office of the President, Bureau of the Budget, Instructions For The Preparation and Submission of Annual Budget Estimate, Bureau of the Budget Circular No. A-11, (August 2, 1957), sec. 2.

ACNO (General Planning) Director, General Planning Group, issues a call to Program Sponsors for submittal of their respective Annual Program Objectives to the CNO (Attention: ACNO (General Planning)).

10 Jan. to 21 Jan. 3. The Chief of Naval Operations reviews the program objectives in preparation for their submission to the Secretary of the Navy. Those portions of the Program Objectives in which the Marine Corps has an interest will be reviewed in collaboration with the Commandant of the Marine Corps.

10 Jan. Deadline for receipt in office of the ACNO (General Planning).

Director, General Planning Group, of all components for inclusion in the Department of the Naval Annual Program Objectives.

ACNO (General Planning) submits Draft of Annual Program Objectives to the CNO Advisory Board on the Naval Establishment Programs and Budget, for a review prior to their submission to the CNO.

ACNO (General Planning) submits revised Draft of Annual Program Objectives to the CNO for his consideration (in collaboration with the CMC on matters of MarCorps interest).

21 Jan. 4. The Chief of Naval Operations submits the Program Objectives to the Secretary of the Navy for his consideration prior to approval. At this time copies are forwarded to the Under Secretary and all the Assistant Secretaries, and to the Commandant of the Marine Corps.

25 Jan. 5. The Secretary of the Navy, in a formal meeting attended by the Under Secretary, all the Assistant Secretaries, the Chief of Naval Operations and the Commandant of the Marine Corps, gives final consideration and approval to the Program Objectives. At this meeting the Comptroller of the Navy will present his estimate of the cost of the Program Objectives in terms of cost categories, and he will analyze the cost implications compared with those of previous years. (The approved Program Objectives will be used by the Secretary of the Navy as a vehicle for discussion with the Secretary of Defense).

1 Feb. 6. The Chief of Naval Operations promulgates the approved Program Objectives.

Budget Process

1 Feb. 1. The Comptroller of the Navy issues the "call for estimates" with other appropriate guidance necessary for the preparation of budget estimates, including the date of submission, 2 July.

1 Feb. to 2 Jul 2. Bureaus, Offices and Headquarters, U. S. Marine Corps, prepare budgets based on Program Objectives and other appropriate guidance, and submit them to the Comptroller of the Navy, 2 July.

2 Jul to 9 Jul — 3. The Comptroller of the Navy reviews budget submissions received from Bureaus, Offices, and Headquarters, U. S. Marine Corps, and prepares a summary budget in terms of cost categories.

10 Jul — 4. The summary budget in terms of cost categories will be presented by the Comptroller at a formal meeting to the Secretary of the Navy, the Under Secretary, the Assistant Secretaries, the Chief of Naval Operations and the Commandant of the Marine Corps. The Comptroller will outline major program deviations from prior years and other important issues.

10 Jul — 5. The Assistant Comptroller, Director of Budget and Reports, will hold hearings on budget submissions with responsible officials of Bureaus, Offices, and Headquarters, U. S. Marine Corps, with regard to all proposed appropriations. Appropriation sponsors from the Office of the Chief of Naval Operations and Headquarters, U. S. Marine Corps, will attend these hearings, as appropriate.

22 Aug to 3 Sept. — 6. The Assistant Comptroller, Director of Budget and Reports, will complete his mark-up of the budget submissions and will review his recommendations with the Comptroller of the Navy.

4 Sept. — 7 The Comptroller of the Navy returns the marked-up budget to the Bureaus and Offices and to the Headquarters, U. S. Marine Corps for such adjustments as may be practicable prior to final review by the Secretary of the Navy.

Budget Adjustment Process

4 Sept. to 17 Sept. — 1. The Comptroller of the Navy, Bureaus and Offices, and Headquarters, U. S. Marine Corps, work actively to adjust differences, with CNO representatives participating as appropriate. Concurrently, representatives of the Chief of Naval Operations and the Commandant, U. S. Marine Corps, examine the budget mark-up to determine military implications and their estimates of needs for adjustments.

18 Sept. — 2. The Budget Advisory Board established by the Chief of Naval Operations, in a formal meeting, reviews the status of the entire budget mark-up against remaining needs for adjustment in an effort to further reduce differences.

Reclama Process

21 Sept. — 1. Unresolved reclama differences will be presented to the Secretary of the Navy by the Comptroller at a formal meeting of the CNO Advisory Board with the Secretary of the Navy presiding as chairman. The unresolved differences will be entertained individually with only the required personnel of one bureau, office, or Headquarters, U. S. Marine Corps, being present at any one time.

21 Sept. to 1 Oct. — 2. All reclamas having been resolved during this meeting, the revised budget will be prepared for submission to the Secretary of Defense on 1 October.[19]

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[19] U. S. Department of the Navy, Office of the Secretary, Enclosure (1) to Secretary of the Navy Instruction 7110.3.

Review in Department of Defense

After each Service has formulated and reviewed its own budget, it is submitted to the Department of Defense for review on about 1 October of the year preceding the fiscal year in which the budget is to become effective. Up until this time these budgets have been looked upon as "Service Budgets" but once they have been formally submitted to the Department of Defense they become the greater part of the "Department of Defense Budget." Although each Service and the Department of Defense are responsible for formulating their own budgets, it would be incorrect to assume that the Bureau of the Budget has no knowledge of these estimates until the Defense Budget has been formally submitted to the Bureau of the Budget. Throughout the entire formulation period of the "Service" and "Defense" budgets, representatives from the Bureau of the Budget have worked closely with military and civilian fiscal personnel in each of the Services and in the Department of Defense.

Once the Services have submitted their budgets to the Department of Defense, representatives of the Bureau of the Budget and examiners from the Department of Defense meet frequently to review the proposed estimates. At these meetings basic problems are thrashed out and policy questions are referred to higher authority. During this period there is a great deal of communication between the examiners in the Department of Defense and their counterparts from the Bureau of the Budget. But, despite this close liaison, each of these groups "marks up" its own estimates independently.[20] A "mark up" is a revision in the estimates (normally a decrease).

Following these reviews, the Department of Defense sends its "mark up" back to the Services and allows them time to study the changes and to appeal for the restoration of cuts. The climax of this entire process takes place in the office of the Secretary of Defense where each Service presents

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[20] Frederick C. Mosher, Program Budgeting: Theory and Practice (New York: American Book-Stratford Press, Inc., 1954), p. 182.

its arguments for restoration. These meetings are attended not only by principal budgetary examiners and authorities of the military departments but also by the top military men and civilians of the Department of Defense and by representatives of the Bureau of the Budget. At these meetings the Secretary of Defense may make a decision on the spot or he may reserve his decision for further consideration. Following these meetings with the Secretary of Defense, the Services, working with the Department of Defense, make the necessary changes in their budget estimates before they are submitted to the Bureau of the Budget.[21] The Department of Defense normally makes the formal submission of its budget to the Bureau of the Budget in November.

Review in Bureau of the Budget

The Military Division of the Bureau of the Budget is primarily responsible for the detailed review of the Department of Defense budget requests. These requests are reviewed for form, completeness, accuracy and are then analyzed in detail by the Bureau of the Budget examiners who deal continuously with that particular agency. Based upon these analyses, the examiners note matters to be discussed at the Bureau of the Budget hearings which will follow.

The duration of these hearings depends upon the size of the agency whose budget is being reviewed; the hearings on the budget of a small agency may be completed in a few hours, but for a department as large as the Department of Defense the hearings may extend for three or four weeks. These hearings are conducted by the Bureau of the Budget examiners and, in the more important hearing, where the Secretary of Defense appears to make a presentation for his Department, the Director of the Bureau of the Budget or his

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[21] Ibid.

Assistant is present. Department of Defense representation usually includes top Defense officials and the Service Comptrollers and their assistants.[22]

As soon as possible after each day's hearings, the Bureau of the Budget examiners meet to formulate their recommendations on the Department of Defense's request. At this stage the examiners may consult with other staffs in the Bureau and once the examiners have reached a decision the agency's request is "marked up" accordingly.

Soon after the completion of these hearings, the Director and other top officials of the Bureau of the Budget meet to review the recommendations of their examiners; the responsible examiners appear at this review to answer questions and to clarify their recommendations. Following this review, the Director's Review Group holds an executive session and reaches a decision as to the amount the Department of Defense should receive. Following this decision, the Director meets with the Secretary of Defense and discusses the major issues which have arisen during the Bureau of the Budget's entire review; after this hearing the Director reaches a final decision as to the amounts to be recommended to the President.

Should the President further change the Department of Defense request, then the Bureau of the Budget informs Defense of the amount which has been approved by the President and advises them to revise their estimates accordingly and to resubmit the revised estimates.

While all this reviewing process is going on, the Treasury Department is preparing its official estimate of reviews; this estimate is based on existing legislatinn and these figures are incorporated into the Budget Document which is prepared by the Office of Budget Review of the Bureau of the Budget.

In contrast to the proposed expenditures side of the budget, the Bureau of the Budget acts only as a transmitting agent for the Treasury's estimates

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22 This procedure is followed for all departments and agencies with the exception of those in the Legislative and Judicial Branches; hearings are not held on the budget requests of those Branches of Government.

of revenues; should any new legislation be required to raise revenues it will be up to the Congress to pass such legislation. Once the President approves the budget it becomes "his" budget and the Department of Defense is required to support it as such. Since neither the President nor the Director of the Bureau of the Budget appears before the appropriations committees to defend the budget, it is up to the various department heads to do so.

The time spent on review of the proposed budget greatly exceeds the time spent to initially prepare the estimates. At each level the estimates are reviewed and re-reviewed—at the installation level, the Command level, the Headquarters level, the Bureau level, the Department level, the Department of Defense level, the Bureau of the Budget level, and the congressional level. The most important and most effective part of the entire review procedure, prior to congressional review, is the joint review by the Department of Defense and the Bureau of the Budget.

This particular review is different from prior reviews because it is the first stage in which the total budget is viewed from the standpoint of the financial situation of the Government and of the budget's over-all economic and political impact. It is the first point at which the basic military assumptions and policies are really challenged. This joint review is extremely thorough and detailed and is the first complete and systematic examination of the military budget by civilians under civilian authority.[23]

Once the financial program is adopted by Congress, there remains the Presidential responsibility of overseeing its effective execution. The Budget Bureau performs this function by quarterly apportionment of appropriations and, by this method, the necessity for additional deficiency appropriations is minimized if not avoided altogether.

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[23] Mosher, op. cit., p. 193.

CHAPTER III

CONGRESSIONAL COMMITTEE SYSTEM

"Congress in its committee rooms is Congress at work."[24] That statement by Woodrow Wilson expresses the fundamental importance of committees in Congressional procedure. There are several types of committees in each House as well as Joint Committees of both Houses; all committees are provided with adequate professional and clerical staffs. The purpose of committees is to enable the Congress to act upon the thousands of bills which are introduced each session and without this system it would be impossible for Congress to consider all the bills brought before it.

Types of Committees

There are four principal types of committees in each House: the Standing Committee; the Select Committee; the Conference Committee; and the Joint Committee.[25]

Pursuant to the provisions of the Legislative Reorganization Act of 1946[26] there are fifteen standing committees in the Senate and nineteen in the House of Representatives, each of which has specified jurisdiction of bills and resolutions according to subject matter. The difference in the number of committees in the respective Houses does not pose any difficulty because bills that are referred, for example, to the Committee on Merchant Marine and

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[24] Wilson, op. cit., p. 89.

[25] Johnson, op. cit., p. 381.

[26] U. S. Congress, An Act to Provide For Increased Efficiency In The Legislative Branch Of The Government, Public Law 601, 79th Cong., 2d. Sess., 1946, p. 812.

Fisheries in the House of Representatives, are referred in the Senate to the Committee on Interstate and Foreign Commerce which has also the jurisdiction corresponding to that of the House Committee on Interstate and Foreign Commerce.

Most of the Senate standing committees consist of fifteen members although the Committee on Appropriations has twenty-three members and the Committee on the District of Columbia has only nine. In the House of Representatives the majority of committees consist of twenty-five members, with the Committee on Appropriations having fifty members and the Committee on the Un-American Activities having only nine.[27]

The ratio of members of each committee from the majority and minority parties is approximately the same as is their proportion in the respective House. The majority members of each committee are nominated by the Committee on Committees of the controlling party and the minority members are from all other parties and are chosen by the minority Committee on Committees. In the Senate, the Democratic Committee on Committees consists of the members of the Democratic Steering Committee and the members of the Republican Committee on Committees are elected as such by the entire Republican membership. In the House of Representatives the Democratic Committee on Committees consists of the Democratic members of the Committee on Ways and Means and the Republican Committee on Committees consists of the Senior Republican Member from each State.

At the commencement of each Congress the standing committees are elected by the respective Houses. The chairman of each committee is traditionally the oldest majority member of the committee in point of continuous service on the committee. The rank of the other members on each side of the committee is fixed by the order in which they are elected to the committee.

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[27]George B. Galloway, The Legislative Process in Congress (New York: Thomas Y. Crowell Company, 1955), p. 592.

In the Senate each Senator serves on only two standing committees except that a limited number of majority and minority members of the Committees on the District of Columbia, Government Operations, and the Post Office and the Civil Service Committees may serve on three standing committees. As a matter of practice in the House of Representatives, service is limited to one committee for each member except for members of the Committees on the District of Columbia, Government Operations, House Administration, and Un-American Activities.[28] Standing committees serve throughout the Congress for which they are elected.

Select committees are occasionally created by resolution in each House for limited purposes and are usually for limited durations. In the Senate the committee members are elected by the members of the Senate and in the House of Representatives they are appointed by the Speaker in the number provided for by the resolution which created the committee.

There are several Committees of the Whole in the two Houses.[29] In the Senate, after treaties have been reported by a standing committee, they are first considered as in Committee of the Whole before being referred to the Senate for final action; this is the only occasion on which the Senate sits as a Committee of the Whole. In the House of Representatives there are two Committees of the Whole that, in effect, are standing committees. The House, sitting as the Committee of the Whole House on the State of the Union, first considers all business that is on the Union Calendar. In addition, all bills on the Private Calendar are called on the first and third Tuesdays of each month, and are considered by the House as in the Committee of the Whole.[30]

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[28] Ibid., pp. 276-278. Galloway has constructed a Table which shows the changes made in the committee system in 1946-1947.

[29] Johnson, op. cit., pp. 397-398.

[30] Ibid., p. 396.

Conference committees are Ad Hoc committees appointed in both Houses to resolve the matters in disagreement between the two Houses where a bill or resolution has been amended by the second body. The Senate and House members of the conference committee, called the managers on the part of their respective bodies, are appointed by the President of the Senate and the Speaker of the House of Representatives. There are usually three members on the committee from each House, but on important bills there may be as many as nine with the majority party in each House usually having the greater representation. The managers on the part of each House are appointed with the view of supporting the measure as it passed that House, inasmuch as they represent that body, but there is invariably representation of the two opinions (not necessarily partisan) which exist regarding the measure. Usually the managers are selected from the members of the standing committee that originally considered the bill. A conference committee is, in effect, two distinct committees each representing its respective body and each having one vote which is determined by a majority of its members.[31]

There are several standing joint committees created by law, notably the Joint Committee on Atomic Energy, the Joint Committee on Internal Revenue Taxation, and the Joint Committee on Printing. These are in addition to the Ad Hoc conference committees described above. Since all legislation is considered by each House separately, any joint committee report must be forwarded to each House separately, either by the joint committee or through one of the Senate or House standing committees.

Procedure and Relationship to Senate or House

The rules of the House of Representatives specifically provide that the rules of that House are the rules of its committees as far as applicable

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[31] Galloway, op. cit., pp. 316-317.

and that committees may adopt additional rules which are not inconsistent.[32] There is no comparable rule in the Senate but Senate committees customarily observe Senate rules where they are not inapplicable.

Each of the standing committees in each House must fix regular meeting days for the transaction of business before it and additional meetings may be called by the chairman if he deems necessary. If the chairman of a committee of the House of Representatives fails to call a special meeting upon the request of three of its members, a majority of the members may call a meeting without his consent after seven days. Most of the committees are divided into subcommittees that meet on the call of the subcommittee chairmen on days not fixed for the regular full committee meetings.

All hearings conducted by standing committees or their subcommittees are open to the public, except for executive sessions for marking up bills or for voting or where the committee by a majority vote orders an executive session. As far as practicable, witnesses are required to file in advance written statements of their proposed testimony and to limit their oral presentation to brief summaries of their arguments.

The chairman of each committee is charged with the duty of reporting or causing to be reported promptly to the Senate or the House of Representatives any measure approved by his committee and to take steps necessary to bring the matter to a vote. Although no measure or recommendation may be reported from a committee unless a majority of the committee is actually present, the rules of the House of Representatives permit each committee to fix the number of its members [not less than two], to constitute a quorum for taking testimony and receiving evidence.

Any committee in either House may, by majority vote, cite an offender before it for contempt of the Senate or the House of Representatives, as the

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[32] Ibid., p. 526.

case may be. Generally all committee action requires final consummation by the Senate or the House of Representatives.

The Appropriations Committees

Adoption of the budget by Congress takes place through the enactment of appropriation acts. On the basis of long established practice, the House Committee on Appropriations first considers the appropriation estimates. As a rule no action of this Committee occurs prior to detailed consideration of the appropriation requests by subcommittees set up to handle the estimates of one or more departments or establishments. The subcommittees hold hearings and, after a detailed study of the necessary evidence, formulate their recommendations in the form of an appropriation bill. Usually the appropriation is available for expenditure only during the next fiscal year but in some cases it can be made available for an indefinite period of time. Appropriation bills are then considered by the Full Committee on Appropriations and reported out to the House. After passage by the House, the bill goes to the Senate where it is accorded similar treatment. Differences between the House and Senate versions of the bill are then settled by conferences of appropriate subcommittee members of the Senate and of the House; the bill is then voted on by both Houses, signed by the two presiding officers and sent to the President for his signature.[33]

In the Senate the Standing Committee on Appropriations has 23 members and eleven subcommittees:

1. Deficiencies, Supplementals and Foreign Operations
   10 permanent members and 3 exofficio members
2. Department of Commerce and Related Agencies
   11 permanent members and 1 exofficio member

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[33] Vincent J. Browne, The Control Of The Public Budget (Public Affairs Press, 1949), pp. 158-159.

3. Department of Defense
   15 permanent members and 3 exofficio members

4. District of Columbia
   5 permanent members and 5 exofficio members

5. Department of Interior and Related Agencies
   11 permanent members

6. Independent Offices and General Government Matters
   11 permanent members and 2 exofficio members

7. Department of Labor and Health, Education, Welfare and Related Agencies
   10 permanent members and 2 exofficio members

8. Legislative
   7 members

9. Department of State and Justice and Judiciary and Related Agencies
   12 permanent members and 3 exofficio members

10. Public Works
    15 permanent members

    Divisions of the subcommittee on Public Works

    a. Army Civilian Functions
       Whole committee

    b. Rivers and Harbors Items
       Whole committee and 3 exofficio members

    c. Atomic Energy, Tennessee Valley Authority
       15 permanent members

    d. Atomic Energy Items
       9 permanent members and 3 exofficio members

    e. Bureau of Reclamation and Interior Power Marketing Agencies
       8 permanent members and 3 exofficio members

11. Department of the Treasury and Post Office[34]
    8 permanent members and 3 exofficio members

In the House the Standing Committee on Appropriations has fifty members and 13 subcommittees:

1. Agriculture
   7 permanent members

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[34]U. S. Congressional Index, 85th Cong. 1957-1958. (Commerce Clearing House, Inc., 1957), pp. 4003-4004.

2. Interior
   7 permanent members

3. Commerce
   10 permanent members

4. Labor, Health, Welfare, and Education
   5 permanent members

5. Defense
   16 permanent members

6. Public Works
   13 permanent members

7. Foreign Operations
   10 permanent members

8. State, Justice and Judiciary
   6 permanent members

9. General Government
   8 permanent members

10. District of Columbia
    4 permanent members

11. Independent Offices
    7 permanent members

12. Legislative
    5 permanent members

13. Military Construction
    5 permanent members[35]

Revenue Committees

Unlike the expenditure side of the budget, formulation of the revenue side is virtually a legislative function. The President in his Budget Message or in special messages may suggest the general contours of new legislation or even offer specific proposals but new revenue proposals will largely be the work of the House Ways and Means Committee and the Senate Committee on Finance because this is where the Constitution places this responsibility.

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[35] Ibid., pp. 6004-6005.

Criticism of Budget Review

Some of the shortcomings in the adoption of the budget which prevailed prior to 1921 still exist. No unified consideration is given to revenues and appropriations nor is there any over-all consideration of appropriations taken as a whole; the House Appropriations Committee functions more as a group of independent subcommittees than it does as a single committee.

Witnesses who appear before the subcommittees to justify their portion of the budget may be questioned in great detail about some part of the budget which represents a minor expenditure, while on the other hand they may not be questioned on areas which represent the greatest expenditures.

The congressional practice of not taking an "over-all" look at the budget is said to be a major weakness in United States budget practice.[36]

Committee Membership

As has been pointed out, the senior member of each committee is named its chairman. In recent years writers have questioned the wisdom of this seniority system and increasing members of these writers declare that the system should be abandoned because it does not insure that the most competent member of a committee is appointed its chairman.[37] This viewpoint may be well taken when consideration is given to the vast power which the committee chairman wields and to the far-reaching effect that the committee's decisions and recommendations have upon the security and economy of the country. But because of the power and prestige which is associated with the chairmanship of committees, it is most unlikely that senior congressmen will relinquish these preferred positions to their juniors.

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[36] Jesse Burkhead, Government Budgeting (New York: John Wiley and Sons, Inc., 1956), p. 312.

[37] James L. McConaughy, Jr., "Congressmen and the Pentagon," Fortune, Vol. 4 (April, 1958), p. 158.

Since each congressman is required to be on at least one committee, the membership of the various committees does represent all shades of opinions of their constituents. Within the Congress are men experienced in business, law, education, agriculture, religion, and a variety of other professions. This wealth of experience, plus the fact that all geographical sections of the nation are represented, does to a great extent, insure that sectional interests will not dominate and prevail.

Insofar as is possible, congressmen are placed upon committees of their choice. A congressman from a farm state may decide that the interests of his constituents and of his own political future might best be served if he held a seat on an agricultural committee. From this vantage point he would be in a position to influence agricultural decisions and policy which are favorable to his constituents and which, at the same time, would deposit to his political account with the folks "back home."

Power of Committees

Because of the power inherent in some committees,[38] membership on these committees is much sought. Perhaps the four most powerful committees in the United States are the Rules Committee, the Appropriations Committees, the Armed Services Committees, and the Foreign Relations Committees. Membership on these committees enhances the prestige and increases the personal power of its members and offers an excellent "stepping stone" for higher political ventures by its members.

The full power of the Appropriations Committees can be appreciated when it is realized that these Committees have the power of "life or death" over most government agencies and functions. For example, should one government agency fall into disfavor with this Committee it can completely terminate

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[38] David B. Truman, The Government Process (New York: Alfred A. Knopf, 1951), p. 370.

the agency's activities that have not been specifically provided for by law by the simple expedient of refusing to grant to the agency the funds needed to operate. In the past the Appropriations Committees have not only used this device against unpopular governmental agencies but have also used it against top administrators within an agency; on occasion these Committees have written into the appropriation bill of an agency the statement that no part of the money appropriated is to be used to pay the salary of a certain John Doe.

Not only do the Appropriations Committees have the power to pass the "death sentence" they also have the power to breathe life into agencies which are favorably looked upon by the Committee. By interpreting the functions of these agencies very liberally and by providing the funds to carry out these enlarged functions, the Appropriations Committees have expanded the activities of some agencies to a point far beyond the original intent of Congress.

The objectivity and effectiveness of a committee are determined largely by the chairman of that committee. The direction and scope of the activities of the committee staff are set forth by the chairman where these activities are neither of a routine nature nor of a traditional origin. The nature of the testimony of witnesses who appear before the committee can be effectively controlled by the chairman through the simple expedient of not calling witnesses whose testimony would reflect an unfavorable viewpoint or by failing to recognize a member of the committee who was known to be friendly to a certain witness thereby eliminating the possibility that a "planted" question could be asked by the member and answered by the witness.

Legislative Staffs

In addition to the members on the various committees, Congress has available to it the services of staff aides. These staffs are made up of

lawyers, investigators, administrative and clerical assistants. In 1957 the amount appropriated for these various staffs amounted to about $17.3 million.[39]

Committee Records

Each committee in both Houses is required to keep complete records of all committee action, including a record of the votes on any question on which a record vote is demanded; all committee records are the property of the respective Houses.

Each committee is authorized to have printed and bound, testimony and other data presented at hearings held by it; a typewritten transcript of the proceedings at open hearings is usually available the day following the hearing. In the House of Representatives the rules permit a witness to obtain a transcript copy of his own testimony, if he pays for it; but the evidence or testimony taken in executive session may not be released or used in public sessions without the consent of the committee. It is interesting to note that, prior to publication of the text of the hearings, each congressman has the privilege of "correcting the record" wherein he is quoted.

The Secretary of the Senate and the Clerk of the House of Representatives, at the close of each Congress obtain all the noncurrent records of each committee and transfer them to the National Archives for preservation, subject to the orders of the Senate and the House of Representatives.

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[39] The Budget of the United States Government for the Fiscal Year Ending June 30, 1959 (Washington, D. C.: Government Printing Office, 1958), p. 20.

CHAPTER IV

BUDGET AUTHORIZATIONS AND APPORTIONMENTS

Stated simply, the purpose of an appropriation is to authorize, by law, the expenditure of public monies for specific purposes.[40]

In the United States Government the authorization of a program by the legislature must precede the appropriation of funds for that program. Departments and agencies of the government are established by law and the limits of their responsibilities and functions are fixed, although in some cases the interpretation of the exact area within which the department or agency may operate is vague. If an agency is charged with the responsibility of providing for the "general welfare" then the authority of appropriations committees to appropriate money for that particular function is broad and the amount of funds appropriated will reflect that particular Congress' interpretation of the meaning of the term. On the other hand, if the statutes are specifically stated then the appropriation committees have limited authority in this area regardless of the political implications. Examples of the areas over which the Congress has little or no financial authority, unless the laws are changed, are farm price supports and payments on the debt. These items are more or less fixed by law and the Congress must appropriate sufficient funds to enable the statutes to be carried out.

Appropriations may not be made for the purpose of establishing new legislation. The function of appropriations committees is to provide funds

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[40] Executive Office of the President, Bureau of the Budget, Circular No. A-34, Instructions Relating to Apportionments and Reports on Budget Status, July 1957, sect. 21.

for governmental activities which have already been established by law; it is the function of the Congress as a whole to make the laws. Some writers have criticized this particular limitation on appropriation committees and say that the limitation is a serious defect in budgetary procedure in the United States. These writers suggest that financial considerations should be paramount and that the House Appropriations Committee should have the authority to propose amendments to legislation in the appropriation bills.[41]

There are two excellent reasons why this suggestion should be ignored: First, the placing of such authority on the appropriation committees would be unconstitutional; next, the adoption of this suggestion would place too much power on an already powerful group. The Constitution states: "No money shall be drawn from the Treasury, but in Consequence of Appropriations made by law; . . ."[42] And the Congress shall have Power: "To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested in this Constitution. . . ."[43] The second reason given for not adopting the proposed suggestion contains the real objection to this proposal; should this additional power be given to the appropriations committees, then a relatively small number in the Congress could perform a large percentage of the legislative functions of the Congress itself.

Budget Authorizations

Budget authorizations by Congress permit government activities to incur obligations and/or to make expenditures. A budget authorization is legal permission granted by the Congress for an agency to award contracts or to expend public funds. This authority sets a ceiling on the agency's aggregate financial transactions for any given fiscal year but it does not

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[41] Smithies, op. cit., p. 176.

[42] U. S. Constitution, Art. I, sec. 9.

[43] Ibid., Art. I, sec. 8.

establish a financial floor for that agency and no agency is required to spend all of the funds authorized for it. The President also has the same limitations and prerogatives with respect to budget authorizations. Should the President desire additional funds for any governmental function or program he must obtain these funds from Congress; should he decide against spending all the money which Congress has appropriated then he may withhold such amounts as he sees fit. The reader will perhaps recall that President Truman took just such action in 1949 when he instructed the Secretary of Defense to place in reserve the funds which Congress had provided to expand the Air Force.[44]

Types of Budget Authorizations

There are six major types of budget authorizations:

(1) Ordinary current appropriations are for a definite, specified amount. 1 year appropriations are commonly used for salaries, and other current expenditures of departments and agencies. Multiple-year appropriations are often used for non-recurrent expenditures. No-year appropriations are available indefinitely and are used primarily for construction projects.

(2) Annual indefinite appropriations are indefinite in amount but are specific as to purpose. This type of appropriation is used for such purposes as covering the deficit of the Post Office Department.

(3) Permanent appropriations are those under which funds become available from year to year without specific action by the Congress. Interest on the public debt is paid under a permanent appropriation.

(4) Contract authorizations permit obligations to be incurred but do not provide the funds to liquidate these obligations. This type of authorization has been frequently used for military and naval procurement but in recent years its use has been increasingly limited in favor of multi-year and no-year appropriations.

(5) Appropriations to liquidate contract authorization are a separate type of budget authorization and must be enacted subsequent to a contract authorization.

(6) Authorizations to expend from public debt receipts are sometimes used in lieu of appropriations when it is anticipated that the outlays may be repaid at a future date.

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[44] Elias Huzar, The Purse and The Sword (Ithaca, New York: Cornell University Press, 1950), p. 192.

> For example, moneys for the lending program of a government corporation may be provided by this type of authorization; this method has been employed for the United States subscriptions to the International Bank and the International Monetary Fund. In these cases, funds are provided by Treasury borrowing. These types of transactions are not normally reviewed by the appropriations committees.[45]

Supplemental and Deficiency Appropriations

In addition to the regular appropriations there exists the Supplemental Appropriation and the Deficiency Appropriation.[46]

A Supplemental Appropriation is authorized by Congress in cases where increased funds are required because of the passage of new legislation or because of the extension of expiring legislation; supplementals are also authorized in cases where unforeseen events take place and when such events require the use of funds which have not been provided to cope with that particular situation. An example of the latter circumstance would be where the Armed Forces were required to spend additional funds for operations in connection with the recent Formosan and Lebonese "flare-ups."

Although a government agency may be justified in submitting a supplemental estimate for funds, the Congress in its infinite wisdom may decide that there is enough "fat" within the agency for it to absorb the additional costs incurred because of the occurrence of the unforeseen events.

As opposed to the Supplemental Appropriation, the Deficiency Appropriation is granted by the Congress to an agency which is running short of funds even though no unforeseen events have taken place during the current budget year.

Burkhead has taken the generally accepted view of Deficiency Appropriations and has considered them as synonymous to Supplementary Appropriations:

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[45] Burkhead, op. cit., p. 317.

[46] A Deficiency Appropriation is normally considered as falling under the heading of a Supplemental Appropriation, but a more positive distinction between the two seems desirable in this paper.

> There are really only two kinds of deficiency appropriations, good ones and bad ones. The bad ones will come from faulty planning on the part of agencies and inadequate review by the central budget office--instances where, with the exercise of more care or more insight or better arithmetic it would have been possible to foresee that program costs would be greater than requested. Deficiencies can also arise from faulty management and inadequate cost control during the execution of a program. Or the legislature itself may force a deficiency, in the interests of temporary political advantage, by appropriating, with an overt display of economy, less than is known to be required.
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> But there is another kind of deficiency--that which arises from circumstances beyond control, as when costs increase because of inflation, when low-cost materials become unavailable and materials of higher cost must be substituted, or when personnel costs rise. In these circumstances, if the program intent of the legislature is to prevail, there is only one recourse; a deficiency will be incurred and the agency must return to the legislature with a request for additional funds. This kind of deficiency often reflects tight budgeting and could be avoided only by an original overestimate.
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> Traditional condemnation of all deficiency appropriations rests on an oversimplified and inadequate analysis of the needs of budget-making. Effective legislative review will extend to both program and finance. The able legislative budget-maker is one who can differentiate the sources of deficiency appropriations, tolerating ones which arise from circumstances beyond control and condemning the ones which arise from faulty budget planning and management.[47]

Deficiencies are not new or recent evils that have fallen upon the country only because of the high cost of goods and services; there is evidence that as far back as 1880 Congress appropriated for deficiencies. Oddly enough these deficiencies were brought about by the relatively large surplus that was accumulating in the Treasury.[48] Extravagances on the part of Congress were as much to blame for these deficiencies as were extravagances by the heads of the Executive Departments. In commenting upon spending by these departments, Wilmerding says:

> The departments governed their expenditures by the amounts of the estimates rather than by the amounts of the grants. If in any

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[47] Burkhead, op. cit., p. 344.

[48] Ibid., p. 12.

> case less were granted than was estimated, the department or bureau affected, instead of revising its plans for the coming year to bring them within the financial limits of the reduced appropriation, continued them without change in perfect confidence that Congress would appropriate supplementary sums when they were requested rather than stop the service.[49]

The controversy over deficiencies did result in some useful legislation however; this legislation was in the form of an Anti-Deficiency Act which was passed in 1906.[50] This Act forbade the departments and establishments of the government to incur obligations not expressly authorized by law and required them to control the rate of their expenditures during the fiscal year so as to avoid deficiencies at the end. But this Act was never enforced. The Budget and Accounting Act of 1921 also failed to meet the situation; therefore deficiency appropriations are still a problem and the various government departments and agencies still find ways of incurring expenditure obligations which later necessitate their asking Congress for appropriations to cover these obligations. As a rule Congress cannot, or does not, refuse to grant them regardless of the effect they may have on the budgetary balance.

Not too long ago the Postmaster General appeared before the Congress to request additional funds for his department and when it became apparent that Congress was displeased with his request, the Postmaster General simply stated that the money would have to be granted or the Post Office Department would have to stop delivering the mails. Needless to say, Congress appropriated the money.

Although the Anti-Deficiency Act of 1906 required the departments and agencies of the government to control their rates of expenditures, the

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[49] Lucius Wilmerding, Jr., The Spending Power (New Haven: Yale University Press, 1943), p. 140.

[50] Urgent Deficiency Act, 1906. An Act Making Appropriations to Supply Urgent Deficiencies in the Appropriations for the Fiscal Year Ending June 30, 1906, (February 27, 1906, 34 Stat. 27).

national budget law provides that, "The President, from time to time, may transmit supplementary or deficiency estimates for such appropriations or expenditures as, in his judgment, are necessary on account of laws enacted after the transmission of the budget, or are otherwise in the public interest."[51] The President is required to accompany these estimated with the reasons they are necessary and to explain how they came to be omitted from the budget. Whenever such estimates reach, in the aggregate, a point where if they had been contained in the budget the total income would not have been sufficient to meet them, the President is required to make recommendations for additional revenues so as to maintain the budgetary balance.

Apportionments

In addition to expressing Congressional reaction to deficiency requests, the Anti-Deficiency Act also provided for the apportionment of appropriations throughout the year as a precaution against excessive spending. Under that law, "Appropriations . . . shall . . . be so apportioned by monthly or other allotments so as to prevent expenditures in one portion of the year which may necessitate deficiency or additional appropriations. . . . ."[52]

In 1933 President Roosevelt transferred the administration of apportionments from the executive departments and agencies to the Bureau of the Budget,[53] and in 1939 the Bureau itself was transferred from the Treasury Department and installed within the Executive Office of the President.

Since the funds authorized by an appropriation may not be used until they have been apportioned, the apportionment may be considered as the first

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[51] Budget and Accounting Act, op. cit., sect. 203(a).

[52] Anti-Deficiency Act, 1906, op. cit.

[53] Speech delivered by Edward Benes, Estimates and Analyst Division, Bureau of the Budget, to the students of the 1958-59 Navy Comptrollership Program, The George Washington University, Washington, D. C., on 13 February 1959.

stage of budget execution. Apportionment requests are submitted by the departments and agencies to the Bureau of the Budget; in making these requests the total funds available to the department or agency during the fiscal year are reported and the agency's needs by quarters are set forth. Supporting schedules in sufficient detail to enable the Director of the Bureau of the Budget to make a decision must accompany the requests. Should a department later determine that its quarterly requirements have changed, it may submit a reapportionment request. An executive department has some leeway to modify the Bureau of the Budget's apportionment to an activity under its control but this internal reapportionment may not exceed five million dollars or five percent of the appropriated funds, whichever is the lesser. Should a department desire to reapportion more than this sum, it is necessary that Congressional approval be obtained.

Upon receipt of the apportionment request in the Bureau of the Budget, the same budget examiners who reviewed the agency's budget prior to its inclusion in the President's budget now review the request for apportionment. Upon approval, the funds apportioned for the first quarter become available; the funds which have been apportioned for the first, second, and third quarters and which have not been expended in those quarters may be carried over into the succeeding quarter; however, no funds may be carried over from one fiscal year into another.

Each government department or agency is required to file a monthly report with the Bureau of the Budget in order to inform that Bureau of the success with which the apportionments are being adhered to.

CHAPTER V

THE GENERAL ACCOUNTING OFFICE

The Constitution of the United States divides the powers of the Government into: Executive, Legislative, and Judicial Branches. The Legislative Branch establishes policy; the Executive Branch administers it. The former appropriates funds; the latter spends them. The Legislative Branch must determine whether its policies are being followed and whether appropriations are being spent economically and for the purposes authorized. Today this determination is made by Congressional Committees and their Staffs and through the General Accounting Office.

Establishment of Treasury Department

As has been indicated in Chapter I of this paper, the Congress decided early that a Treasury Department would be needed in order for the Congress to implement its financial powers. As enacted, the Treasury Act of 1789 created a Department of the Treasury, headed by a Secretary, a Comptroller, an Auditor, a Treasurer, and a Register.[54] The duties of the Comptroller included superintending the adjustment and preservation of the public accounts, examining all accounts settled by the auditor and certifying the balance. The duties of the auditor included receiving all public accounts, and after examination certifying the balances and transmitting the accounts with the vouchers and certificates to the comptroller for his decision.

Early experiences with the spending of public funds indicated that greater legislative control over these funds would be required. Situations

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[54]Act of September 2, 1789, 1 Stat. 65.

arose whereby appropriated funds which had been directed by Congress to be spent by certain officers for special purposes were later determined to have been expended, in some instances, as those officers saw fit. Shortages in accounts due to the failure to apply funds specifically to the purpose for which appropriated and the insistance of department heads that they had the right in themselves to apply these sums as they saw fit resulted in a committee being formed in the House of Representatives to determine if these funds had been legally spent and accounted for. This committee found, in effect, that there were two requisites to justify expenditures of public money: (1) that the expenditure for the object to which applied should be authorized by law; and, (2) that appropriations should be made to cover those expenditures. These findings then were a restatement of the Constitutional requirement that no money should be drawn from the Treasury but in consequence of appropriations made by law. Because of this committee report, a law[55] was passed which is now section 3678 of the Revised Statutes. This law directed that money appropriated by law for each type of expenditure should be applied solely to the objects for which appropriated and to no other.

Another problem which confronted the early Congresses was that of advances of public funds. After several conflicts in this area, another law,[56] now section 3648 of the Revised Statutes, was passed and this law forbade the advance of public funds except under the direction of the Chief Executive to disbursing officers and to military and naval personnel at distant stations.

The Congress had to rely on the accounting officers for the carrying out of these provisions and the number of these officers grew from one comptroller and one auditor in 1789 to two comptrollers and six auditors in 1849,

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[55]Act of March 3, 1809, 2 Stat. 535.

[56]Act of January 31, 1823, 3 Stat. 723.

with a Commissioner of the General Land Office and a Commissioner of Customs exercising accounting responsibility.

The Dockery Act of 1894

The next major change in the accounting system of the Government took place in 1894 under the Dockery Act.[57] This Act consolidated the accounting system under the Comptroller of the Treasury and gave to him appellate and revisionary powers over the decisions of the six auditors and the authority to render decisions in advance of payment upon questions presented by heads of departments or disbursing officers.

Establishment of General Accounting Office

After seventeen years of operation under the new system, Robert J. Tracewell, the Comptroller of the Treasury, stated in his annual report for the fiscal year 1911, that the accounting officers of the Government should be directly responsible to the Congress for their official actions in interpreting its laws and in the stating of accounts:

> To be as efficient as it can be made, and with the idea of economy in the operations always uppermost, it [accounting control] should be independent in fact as well as in name. Congress makes its appropriations for the support and maintenance of the government for specific purposes and with many limitations and restrictions surrounding their expenditure. Necessarily these expenditures are left largely to the initiative and discretion, within these limitations and reservations, of the heads of the executive departments and to the heads of the independent offices and commissions not under the executive departments.[58]

Tracewell continues:

> In my judgment, and speaking from an experience covering a considerable period of time, the accounting officers of the Government should be directly responsible to Congress, and the

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[57] Act of July 31, 1894, 28 Stat. 162.

[58] Annual Report of the Comptroller of the Treasury, 1911, p. 9.

> Congress alone, for their official actions in interpreting its laws and in the stating of accounts thereunder.[59]

Many writers followed Tracewell's judgment[60] but it was not until after the cessation of hostilities in World War I that any legal action was taken.

In 1919 Representative James W. Good, then chairman of the Appropriations Committee, realizing the need for reform in the Federal budget and accounting system, introduced a resolution for the appointment of a Select Committee on the Budget to study the matter of a budget system. One of the witnesses who appeared before the committee in favor of an independent system of audit and control was Dr. Frank J. Goodnow, then President of the Johns Hopkins University and a previous member of the Commission on Economy and Efficiency during President Taft's administration. He stated, in substance, that many foreign governments had Comptroller Generals and auditors who were independent of the Executive Branch; Goodnow further stated that if such a system were followed in this country the Comptroller General should have a tenure similar to that of judges, if the legislature were to be certain that they would always receive correct statements of public funds and their expenditure.[61]

Upon passage of the Budget and Accounting Act, the General Accounting Office was created as:

> An establishment of the Government to be known as the General Accounting Office, which shall be independent of the Executive Departments and under the control and direction of the Comptroller General of the United States.[62]

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[59] Ibid., p. 10.

[60] Charles W. Collins, The National Budget System (New York: The Macmillan Company, 1917), pp. 100-102.

[61] Hearings before the Select Committee on the Budget of the House of Representatives on the Establishment of a National Budget System. 66th Cong. 1st sess. (Washington: Government Printing Office, 1919), pp. 347-348.

[62] Budget and Accounting Act, op. cit., sec. 301.

Authority under the Budget and Accounting Act

Actually the Budget and Accounting Act had two purposes: (1) to provide for a budget system for the United States, and (2) to insure an independent audit of governmental accounts. Title III of the Act concerns the General Accounting Office.

Section 301 of the Act abolished the offices of the Comptroller and Assistant Comptroller of the Treasury, effective on 1 July 1921, and transferred other officers and employees of the Comptroller's office to the General Accounting Office.

Section 302 provides for a Comptroller General and an Assistant Comptroller General to be appointed by the President with the advice and consent of the Senate.

Section 303 provided that these officers should hold office for a period of fifteen years, and should be subject to removal from office only by joint resolution of the Congress or by impeachment; that the Comptroller General shall not be eligible for reappointment, and that when either officer reached the age of seventy years, he should be retired from office.

Section 304 lodged in the General Accounting Office, to be exercised without direction from any other officer, all the duties and powers of the Comptroller of the Treasury and the six auditors of the Treasury Department, as well as the duties of the Division of Bookkeeping and Warrants pertaining to maintaining the personal ledger accounts of disbursing and collecting officers. This section also stated that the balances certified by the Comptroller General should be conclusive on the Executive Branch of the Government.

Section 305 amended section 236 of the Revised Statutes to provide that "all claims and demands whatever by the Government of the United States or against it, and all accounts whatever in which the Government of the

United States is concerned, either as debtor or creditor, shall be settled and adjusted in the General Accounting Office."

Section 306 made provision for giving judicial effect to copies of books, records, papers, or documents and transcripts from the books and proceedings of the General Accounting Office.

Section 307 authorized the Comptroller General to provide for the payment of accounts or claims adjusted and settled in the General Accounting Office through disbursing officers instead of by warrant.

Section 309 directed the Comptroller General to prescribe the forms, systems, and procedure for administrative appropriation and fund accounting in the departments and establishments and for the administrative examination of fiscal officers' accounts and claims against the Government.

Section 310 required the Comptroller General to investigate all matters pertaining to the receipt, disbursement and application of public moneys, and to make to the Chief Executive when requested by him, and to Congress at the beginning of each regular session, a report of the work of the General Accounting Office, together with recommendations as to legislation which the Comptroller General may deem needed to facilitate the prompt and accurate rendering of accounts. The Comptroller General was also directed to make recommendations which might result in greater economy and efficiency in the Government. Provision was also made for the Comptroller General to make such investigations and reports as ordered by either House of Contress, or by any congressional committee having jurisdiction over revenue, appropriations, or expenditures. Provision was made for special reports by the Comptroller to Congress of all expenditures and contracts made by departments or establishments in contravention to law; for reports to the legislature on the adequacy and effectiveness of the administrative

examination of accounts and claims; and for furnishing the Bureau of the Budget with such information pertaining to expenditures and accounting as it might request from time to time.

Implied Authority

The General Accounting Office by implication has come to interpret all statutes pertaining to the receipt, payment, or use of public funds, and to approve contracts, and to have the custody of original documents needed to support the validity of expenditures of funds.

Leonard D. White in his book says this of the implied authority of the General Accounting Office:

> The powers vested in this office were numerous and weighty. They included, by specific enumeration, authority to settle and adjust all claims and demands by the government or against it; to prescribe the forms and procedure for accounting; to investigate all matters relating to the receipt, disbursement, and application of public funds; and to report to Congress every expenditure or contract made in violation of law. They included by implication or construction authority to interpret all statutes affecting the receipt, expenditure, or use of public funds, to approve contracts, and to have the custody of original documents necessary to support the validity of payments. Mere enumeration of these powers reveals the central position which the General Accounting Office has come to occupy; their steady expansion eventually precipitated a strong reaction.[63]

Relations with Executive Agencies

"All Goddam auditors ought to be in the bottom of hell."[64] This statement has been attributed to General George S. Patton and seems to reflect the opinion some heads of Executive Departments have had of the Comptroller General and of the General Accounting Office at various times throughout its history. This feeling can be attributed partially to the

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[63] Leonard C. White, Introduction to the Study of Public Administration (New York: The Macmillan Company, 1948), p. 297.

[64] Mosher, op. cit., p. 191.

human reaction that takes place whenever an auditor is assigned to perform his function; the auditor is frequently viewed as a person whose job it is to find fault and to criticize financial procedures. This particular viewpoint will be eliminated when the recipient of the auditor's services realizes that the findings and recommendations of the auditor can be used to increase efficiency and performance and when the auditor himself realizes that his function is to perform a service for management and that it is not his proper role to encroach upon administrative discretion.

The feeling of suspicion of the General Accounting Office has not been unfounded in all cases; the role which this Office has assumed for itself on occasions has been one which has overstepped its authority and which has antagonized various governmental agencies. In its report, the President's Committee on Administrative Management said, in 1937:

> Before 1921 there was comparatively little complaint that the rulings of the Comptroller of the Treasury, precursor of the Comptroller General, encroached upon administrative discretion. This was probably because the Comptroller of the Treasury was a part of the Administration itself, even though he had semi-independent statutes, and because of the practice of referring disputed questions to the Attorney General. From 1921 on, however, the Comptroller General, through numerous rulings, has carried his authority into areas which are clearly in the realm of executive decision. . . . Many of his rulings go far beyond the terms of any statute.[65]

The power of the General Accounting Office to rule upon the legality of expenditures has caused much criticism from executive agencies. These agencies claim that rulings by an independent auditing officer interfere with the authority of the agency to make decisions and that such a procedure forces their administrative officers not only to go to their superiors for a decision but requires them also to go to the General Accounting Office for

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[65] President's Committee on Administrative Management, Report with Special Studies (Washington, D. C.: Government Printing Office, 1937), p. 23.

determinations as to the legality, the form and the procedures which should be used in carrying out a certain function. There is no question but that this division of responsibility does result in much delay and red tape and is the cause of some inefficiencies.

There are numerous cases on the records where the heads of the Executive Departments have felt that the Comptroller General had gone too far outside his authority in making demands upon them and they have at times refused to carry out his requests. The controversies which resulted from such refusals usually found strong advocates on both sides and the controversies were on occasion settled by the President himself or by the Congress. Because of his tenure and his relative independence, the personal characteristics of the Comptroller General are extremely important and the popularity of the General Accounting Office at any given time seems to be in direct relationship to the popularity of the Comptroller General himself, although throughout its sometimes stormy history the Congress has looked upon the General Accounting Office as a favorite son who can do no wrong.

Budget and Accounting Procedures Act of 1950

Under the Budget and Accounting Procedures Act of 1950,[66] the Comptroller General is responsible for prescribing the principles, standards, and related requirements for accounting to be observed by each executive agency. He is also responsible for cooperating with the executive agencies in the development of their accounting systems and for approving agency accounting systems when he deems such systems to be adequate. Under this Act the Comptroller General is also responsible for reviewing the accounting systems of the executive agencies and for reporting his findings to Congress.

Under this Act, the Comptroller General is not charged with any administrative responsibility to ensure that the agencies do adopt modern

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[66] Budget and Accounting Procedures Act of 1950, Public Law 784, 81st Cong., 2d. sess.

accounting methods and systems, nor does he have any obligation to install them although the Accounting Systems Division of the General Accounting Office has greatly assisted executive agencies in devising and installing improved systems and procedures.

Second Hoover Commission

The Second Hoover Commission found that the development and maintenance of accounting systems and the providing of financial reports as an aid in managing the operations of executive agencies is the responsibility of the Executive Branch of the Government, although that Branch has not provided central direction for accounting performance. In order to remedy this weakness, the Commission recommended [67] that an Assistant Director for Accounting be established under the Director of the Bureau of the Budget and that this assistant be charged with responsibility for developing and promulgating an over-all plan for accounting and reporting which would be consistent with the broad policies and standards prescribed by the Comptroller General.

Present Organization of the General Accounting Office.

The most recent organization of the General Accounting Office consists of Divisions, Branches, Offices and Staffs.[68] The scope of the activities of this Congressional Agent may be appreciated by presenting a brief summary of the functions of each of the major organizational units.

Office of the Comptroller General.--Executive management of the General Accounting Office is carried out by the Comptroller General who is assisted by the Assistant Comptroller General and staff assistants.

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[67] Recommendation No. 15.

[68] Organization of General Accounting Office for Fiscal Year 1959.

Office of legislative liaison.--This office assists the Comptroller General in coordinating the various activities of the General Accounting Office with the Congress, its committees, and individual members.

Claims division.--All claims by or against the United States are settled in this division, except those for transportation items and claims within exclusive jurisdiction are conferred by law upon another agency or the courts.

Transportation division.--This division audits freight and passenger transportation payments for account of the United States and settles claims involving transportation charges. The transportation audit recovered $47,654,842 during 1957.

Office of the general counsel.--In addition to preparing decisions and reports on the legality or propriety of proposed obligations and expenditures of the Government, the general counsel and his staff participate in conferences with legislative and administrative officials of the Government on legal matters of a fiscal nature, the sufficiency of proposed legislation, the desirability of new legislation for particular purposes, and render all other required legal services.

Accounting and auditing policy staff.--This staff develops accounting policy for observance by each agency and for the guidance of audit work performed by General Accounting office auditors; develops internal auditing objectives and standards for guidance of the executive agencies; reviews and develops, in cooperation with the Treasury Department and the Bureau of the Budget, central accounting and financial reporting processes; reviews agency accounting systems; develops and directs a program of application of modern electronic systems and other advanced methods to accounting operations of the Government; and assists and advises Congress on accounting and auditing policy matters.

Office of staff management.--This function involves: (a) a recruiting program to obtain a high quality professional staff of accountants, auditors and investigators; (b) a training and professional career development program; (c) exercising, in cooperation with the accounting and auditing divisions, general control over the assignment of the staff; and (d) securing appropriate recognition of the professional character of the accounting and auditing work of the General Accounting Office.

Defense accounting and auditing division.--This division performs the accounting, auditing, and investigative functions of the General Accounting Office in the Department of Defense. These functions involve the development, review and evaluation of accounting systems; the evaluation of the performance of the Military Establishment in discharging its financial obligations; and the conduct of investigations of matters relating to the handling of public funds.

Civil accounting and auditing division.--This division performs the accounting, auditing, and investigative functions of the General Accounting Office in all departments and agencies of the Federal Government, other than those assigned to the defense accounting and auditing division. These functions involve the development, review, and evaluation of accounting systems; the evaluation of the performance of the civil departments and agencies in discharging their financial obligations; and the conducting of investigations of matters relating to the handling of public funds.

Field operations division.--This division, through 19 regional offices, performs all assigned accounting, auditing, and investigative functions outside the metropolitan area of Washington, D. C.

European branch.--This branch, with headquarters in Paris, France, performs General Accounting Office functions as they relate to U. S.

Government operations in the European area, North Africa, and the Near East. Sub-offices are located in London, England; Frankfurt, Germany; Rome, Italy; and Madrid, Spain.

Far East branch.--This branch with headquarters in Tokyo, Japan, performs General Accounting Office functions as they relate to U. S. Government operations in the Far East.

Outlook for the Future

Sound fiscal management, which includes control through the means of audit, is a requisite of good management, and management lies at the core of democracy. Problems in fiscal accountability and control in the Federal Government will continue to present a challenge in our democracy. Whether or not all of the proposals or recommendations for improvement are adopted remains to be seen.

The Hoover Commission studied the matter of improving the Federal Government but it had authority only with respect to matters concerning the Executive Branch, whereas the General Accounting Office is part of the Legislative Branch. Whenever the Hoover Commission, or in fact any other commission in the past, endeavored to recommend changes in Federal accounting procedures, as distinguished from auditing, storms of protests have been advanced by opponents to change in the present system despite the fact that accounting is purely an executive function. Such protests emanated not only from Members of Congress but also from the Comptroller General of the United States.

The philosophy of the opponents to change appears to be that the taking away of the accounting function from the Comptroller General would result in a weakening of that Office with a concomitant encroachment on the authority of the Congress. However, actually such separation of accounting and auditing

functions would really strengthen the controls of the Comptroller General and the Congress. Without the authority over accounting, the Executive Branch is weakened with the result that a truly managerial operation cannot be adequately performed by the Chief Executive. The President at present does not have adequate accounting authority which is necessary to keep Federal expenditures to a minimum so as to enable the taxpayers to get the most for their money. With the authority over accounting divided between the Legislative and the Executive Branches, it is not possible to achieve the best possible administration in the Federal Government.

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